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DFT 002635



King County
Building & Land Development Division
Department of Planning
and Community Development
450 King County Administration Bldg.
500 Fourth Avenue
Seattle, Washington 98104

D. B. SWEENEY

SHORELINE MANAGEMENT ACT OF 1971
<<< DECISION >>>
ON SHORELINE MANAGEMENT PERMIT APPLICATION(S)

DATE: 19 Aug 1986 DATE RECEIVED: 25 Feb 1986
APPLICATION NO(S): 009-86-SH
APPLICANT NAME(S): Larry Lowe for Atlas Wreckers

Pursuant to RCW 90.58, the following decision on the subject application in the name of the above-named applicant is hereby rendered:
Substantial Development Permit 009-86-SH, conditionally approved, 19 August 1986.

to undertake the following development:
Use of property for storage of recycling materials. Processing of recycled building materials within shoreline jurisdiction.

upon the following described property:
Portion of Government lot 7, SE 4-23-4, lying between the Duwamish River and West Marginal Place South. Property bounded on the south by South 110th St (if extended) and approximately South 107th (if extended).

STR: SE 4-23-4

Waterbody: Duwamish River

Shoreline Environment Designation: Urban

Shoreline of Statewide Significance: Yes

Reasons for conditional approval are as stated in the August 19, 1986 Shorelines Hearing Officer Report and Decision.

SIGNATURE

Ralph C. Colby

DATE:

8/19/86

RALPH C. COLBY
Supervisor

DFT 002636

BUILDING AND LAND DEVELOPMENT DIVISION
Department of Planning & Community Development
450 King County Administration Building
Seattle, Washington 98104
344-7970

SEP 4 1986

S H O R E L I N E S H E A R I N G O F F I C E R

Report and Decision

SUBJECT: File No.: 009-86-SH

Applicant: ATLAS BUILDING WRECKERS, INC.

Location: East of West Marginal Way South (S.R. 99),
and south of South 108th Street, north
of South 110th Street and adjacent to the
Duwamish River.

Substantial
Development Request: A Shoreline Substantial Development Permit
or operate a construction material
recycling yard within shoreline
jurisdiction.

BACKGROUND:

Application for a Shoreline Substantial Development Permit
was duly received and filed on February 25, 1986.

Notice of application was mailed to property owners within
a 500' radius of subject property by the Building and Land
Development Division, Department of Planning and Community
Development on March 5, 1986.

Notice of Application was published in the Highline Times
Newspaper for a period of two consecutive weeks, on Wednesdays,
March 19, 1986, and March 26, 1986.

Public Notice of the subject request was posted on or near
the subject property by the applicant 30 days prior to the Public
Hearing.

Field inspection was made by the Plan Implementation staff
prior to preparation of this report.

The Building and Land Development Division file on this
case, containing the Applicant's Submittal, Public Notice,
documentation prepared by the staff, and correspondence, are
entered within the file as "exhibits," and are herein
incorporated and referenced.

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FINDINGS, CONCLUSIONS, AND DECISION

I. FINDINGS:

1. The request is for a Substantial Development Permit, pursuant to the Shoreline Management Act, to operate a construction material recycling yard within Shoreline jurisdiction. The building salvage/recycling yard already exists on the property.

2. The subject property is located on the west side of the Duwamish River, a waterway of State wide significance, designated "Urban" by the King County Shoreline Management Master Program. The property is zoned M-H (Heavy Manufacturing), which is the most intense zone permitted in King County. The property lies east of West Marginal Way South (SR 99) south of 108th Street and north of South 110th Street. The property is owned by Asunta and Catherine Desimone (with Rainier National Bank acting as trustee). The property is leased to PACCAR, Inc. Paccar subleases the property to Atlas Building Wreckers. The portion of the property leased by Atlas Wreckers is approximately 15 acres, lying immediately south of Seattle City Light right-of-way. However, the Atlas Wreckers operation has expanded over substantial portions of a larger tract leased by PACCAR from Desimone located north of the City Light Right-of-Way. A similar operation is conducted within the City Light Right-of-Way by someone other than the applicant, who leases that property from Seattle City Light. According to the Seattle City Light representative, none of the Atlas operation is located on City Light property. According to the PACCAR representative, Atlas Wreckers uses the City Light right-of-way as access to the northerly tract. There is also some indication that the individuals or company using the City Light right-of-way are also encroaching upon the PACCAR leased property.

4. PACCAR and Atlas have entered into an agreement which limits Atlas use of the site to restoration of the property to its "original, vacant bare land condition," prohibits deposits of new or additional materials without written PACCAR consent, and provides a definite schedule for removing materials located on site, with final restoration occurring on or before April 30, 1987.

PACCAR notes that the company has "...no assurance that Atlas can and will perform any or all of its obligations as stated..." However, PACCAR expects that Atlas will perform and intends to provide Atlas "every opportunity" to meet its commitments. The PACCAR representative indicates that the

company will give Atlas Wreckers additional access to the northerly tract for the purpose of removing unauthorized materials deposited on their property, if such additional access is necessary.

5. KCC 25.16.010 sets forth the purpose of the "Urban" Shoreline Management Designation, and promotes more intense levels of use "...if the major use is water dependent or water related, while at the same time safeguarding the quality of the environment."

KCC 25.16.030 permits "Non-water related development" in the urban environment, but requires collection facilities to control and separate contaminants (KCC 25.16.030.F).

Both KCC 25.16.070, regulating commercial development in the urban environment, and KCC 25.16.170, regulating industrial development in the urban environment, requires a setback of 50 feet from the ordinary high water mark. Building and Land Development staff determines that the Atlas Wrecking activity on the property is more appropriately considered as commercial rather than industrial because the Atlas Wrecking operation is not involved in primary production, and because the commercial classification applies more specifically to the activity on the property.

6. Applicable King County Shoreline Master Program Policies, Goals, and Objectives encourage visual compatibility, and discourages uses which are not shoreline dependent or water oriented. The policies further encourage placement inland of commercial structures and ancillary facilities and development of pollution control facilities. The policies also emphasize that when an activity is not shoreline dependent it should provide a buffer zone of vegetation.

7. No storm water facilities exist on site. Storm water flows west off the site and into ditches flowing north and south into the river. No pollution control devices exist on site.

8. The current use of the property is temporary. According to the PACCAR/Atlas Building Wreckers agreement, the principal use of the property until April 30, 1987, will be to remove stored materials from the property.

9. The Building and Land Development Division staff recommends the issuance of a Substantial Development Permit which terminates April 30, 1987, and which requires all existing salvage materials to be removed from the shoreline jurisdiction by that same date.

Additionally, the staff recommends that all materials be removed immediately from within 50 feet of the ordinary high water mark of the Duwamish River. The Division also recommends that sanitary facilities consistent with Washington State Department of Labor and Industry requirements be required on site as a shoreline management permit condition.

10. Numerous owners of residential properties in the vicinity of the subject property expressed concern regarding the Atlas Wrecking activity on the property. Concern is expressed regarding hazardous materials (toxic, flammable, explosive), water pollution, air quality (from open air sandblasting and painting), and possible fire hazard from stored creosoted wood. Additionally, neighboring property owners are upset with the unsightliness of the property, and the adverse effect the Atlas Wrecking operation is expected to have on their property values.

11. The Shoreline Hearing Officer administratively continued the hearing on this matter until July 24, 1986, in order to obtain grading, fire marshal, and Health Department reviews of the property, and in order to provide time for a staff report to the Examiner which summarizes grading, fire protection, and health considerations identified by those reviews.

Based on those reviews, the Adjustor finds:

- a. No grading permit is required. See Exhibits 21.A. and 21.B.
- b. There are no hazardous materials on site. The operation is being conducted within the terms of King County Fire Marshal Permit January 21, 1986. Explosives may be kept on site consistent with Fire Marshal requirements. See Exhibits 22.A, 22.B, and 23.

II. CONCLUSIONS:

1. Atlas Building Wreckers has used the property in violation of the shoreline Management Act since 1971. The operation has no Shoreline Management Permit and the operation is conducted in violation of KCC 25.16, which requires at a minimum the following:

- a. Storm water control and pollution control; and,
- b. A setback from the Duwamish River of 50 feet.

2. The violations are critical, substantially endangering the river environment, and must be corrected. The substantial public interest in correcting the circumstances, however, must be balanced with the knowledge that this is temporary activity with a time schedule for the applicant's complete withdrawal. It is questionable whether imposing the full requirements of the Shoreline Act would achieve any other result than the applicant's abandonment of the property, thereby thwarting the public interest.

3. The conditions of approval set forth below are intended to achieve site restoration and to assure that any new use of the property will be consistent with a Shoreline Management Act and the King County Shoreline Master Program.

4. The conditions as set forth below are necessary to implement the public interest as expressed in the King County Shoreline Management Master Program.

III. DECISION:

Substantial Development Permit application 009-86-SH is
APPROVED, subject to the following conditions:

1. This permit shall terminate April 30, 1987. All the salvage and rubble materials, or any other materials of any kind stored by the applicant within the Shoreline Management jurisdictional area (within 200 feet of the Duwamish River) shall be removed on or before February 28, 1987.
2. The applicant shall remove all materials located within 50 feet of the ordinary high water mark of the Duwamish River before September 30, 1986.

3. The applicant shall demonstrate that sanitary facilities meeting Washington State Department of Labor and Industries requirements are present and operative on site.
4. Conditions 1 and 2 above will be enforced pursuant to the enforcement penalty provisions of KCC 25.32.120 and/or KCC Title 23. Violations of the provisions of this permit shall make the violator(s) liable for all damage to public or private property arising from the violation, including the cost of restoring the affected area within a reasonable time. The King County Prosecuting Attorney may bring suit for damages on behalf of the County.

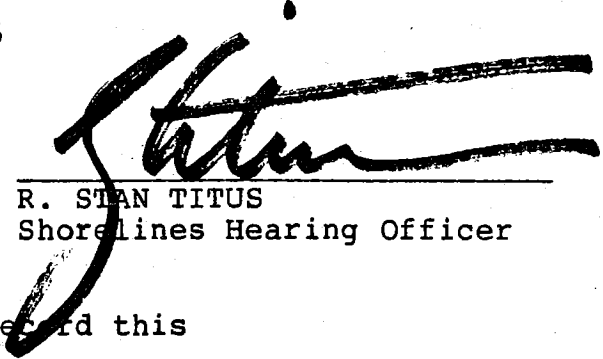
NOTE: Violation of the Shoreline Management regulations, Master Program, and conditions of this permit, constitutes a gross misdemeanor, punishable by a fine of not less than than \$25 nor more than \$1,000 or by imprisonment in the County jail for not

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more than 90 days, or by both fines and imprisonment.

KCC 25.32.120.

ORDERED this 19th day of August 1986



R. STAN TITUS
Shorelines Hearing Officer

TRANSMITTED to attached parties of record this
19th day of August 1986

RST:jf

Attachments:

APPENDIX A - RIGHT TO APPEAL
APPENDIX B - MINUTES, PARTICIPANTS, EXHIBITS
APPENDIX C - PARTIES OF RECORD

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RIGHT TO APPEAL

The Shoreline Action may be appealed as follows:

The Shoreline Substantial Development Permit Action may be appealed in writing by any aggrieved party to the Washington State Shorelines Hearing Board. Appeals must be filed within 30 days from the date of this transmittal. Guidelines for appeal procedures may be obtained from:

SHORELINES HEARING BOARD
4224 - Sixth Avenue Southeast, Building 2
Lacey WA 98504

ATTACHMENT A

MINUTES, PARTICIPANTS, EXHIBITS

The hearing was opened by the Shorelines Hearing Officer at 9:15 a.m., June 24, 1986, in Room EB-08 of the King County Courthouse. All participants offering testimony in these proceedings were duly sworn by the Shorelines Hearing Officer.

Participants in the hearing were:

Stan Titus, Hearing Officer
Pat Downs, Planner

Phillip Gladfelter, (b) (6)
(b) (6)

The following exhibits were offered and entered into the record:

- No. 1 Fm Duwamish View Improvement Club, 3/10/86
- No. 2 Fm (b) (6) 3/11/86
- No. 3 Fm 3/11/86
- No. 4 Fm 3/13/86
- No. 5 Fm , 3/18/86
- No. 6 Fm Surface Water Management, 3/27/86
- No. 7 Fm Boeing, 3/27/86
- No. 8 Fm METRO, 4/1/86
- No. 9 Fm City Light, 4/4/86
- No. 10 Fm (b) (6) 3/18/86
- No. 11 To Parties of Record, 4/30/86
- No. 12 To Parties of Record, 5/1/86
- No. 13 Fm METRO, 4/1/86 (same as exhibit 8)
- No. 14 Fm Department of Ecology, 4/17/86
- No. 15 Fm (b) (6) , 5/12/86
- No. 16 Notice of Rescheduled Hearing, 6/17/86
- No. 17 Fm (b) (6) , 6/10/86
- No. 18 Fm PACCAR, 6/17/86
- No. 19 St off report 6/10/86
- No. 20 48 Photographs submitted by Henry Hering.
- No. 21.A. Fm (b) (6) 7/3/86
- No. 21.B. Fm (b) (6) 7/10/86
- No. 22.A. Fm (b) (6) 7/8/86
- No. 23.B. Fm Fire Marshal 7/25/86
- No. 23 Fire Marshal Permit 1/21/86

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The Shorelines Hearing Officer closed the hearing at 11:50 a.m., on June 24, 1986, keeping the hearing record open until July 24, 1986. A verbatim recording of the hearing is available in Building and Land Development Division Office.

ATTACHMENT B

DFT 002646

PARTIES OF RECORD

Department of Ecology, Shorelands Division
Mail Stop PV-11, Olympia WA 98504
Assessor's Office
Room 700, Administration Building
Doug Schuemann, PAMCO

3600 Fremont Avenue North, Seattle WA 98103

(b) (6)

, Seattle WA 98168

, Seattle WA 98168

, Seattle WA 98168

Attorney General, Temple of Justice
Olympia WA 98504

(b) (6)

Seattle WA 98168

(b) (6)

, Seattle WA 98168

, Seattle WA 98168

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Shoreline Review, Surface Water Management Division
Public Works Department, 976 Administration Building
Larry Lowe

(b) (6)

, Seattle WA 98108

(b) (6)

Seattle WA 98168

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Seattle WA 98168

Seattle WA 98168

Seattle WA 98168

METRO

821 Second Avenue, Seattle WA 98104

(b) (6)

Seattle WA 98168

Seattle WA 98168

Seattle WA 98168

Seattle WA 98168

Stephen E. Hagen, Seattle City Light

1015 Third Avenue, Seattle WA 98104

Richard Sklar, Kenworth Trucking

Post Office Box 80222, Seattle WA 98108

(b) (6)

Seattle WA 98168

(b) (6)

Seattle WA 98168

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Seattle WA 98168

L.F. Boulanger, The Boeing Company

Post Office Box 3707, MS 46-87, Seattle WA 98124-2207

(b) (6)

Seattle WA 98168

ATTACHMENT-C



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Building & Land Development Division**

Department of Planning
and Community Development

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8/19/86

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Supervisor